

hearings in those few cases which may involve issues of credibility or veracity. In those cases where an oral hearing is not required by this section, DOE will accord the debtor a “paper” hearing, that is, DOE will make its determination on the request for waiver or reconsideration based upon a review of the written record. If the claim is disputed in full or in part, the debtor’s written response to the demand must include a request for review of the claim within DOE. If the debtor disputes the claim, the debtor shall explain why the debt is incorrect. The explanation should be supported by affidavits, canceled checks, or other relevant information. The written response must reach DOE by the payment due date. A written response received after the payment due date may be accepted if the debtor can show that the delay was due to circumstances beyond the debtor’s control or failure to receive notice of the time limit. The debtor’s written response shall state the basis for the dispute. If only part of the claim is disputed, the undisputed portion should be paid by the date stated in the initial demand. DOE shall notify the debtor, within 30 days whenever feasible, whether DOE’s determination of the debt has been sustained, amended, or canceled. If DOE either sustains or amends its determination, it shall notify the debtor of its intent to collect by administrative offset unless payment is received within 15 days of the mailing of the notification of its decision; and

(vi) The right of the debtor to offer to make a written agreement to repay the amount of the claim. The acceptance of such an agreement is discretionary with DOE. If the debtor requests a repayment arrangement because a payment of the amount due would create a financial hardship, DOE will assess the debtor’s financial condition based on financial statements submitted by the debtor. Dependent upon the evaluation of the financial condition of the debtor, DOE and the debtor may agree to a written installment repayment schedule. The debtor should execute a confess-judgment note which specifies all of the terms of the arrangement. The size and frequency of the installment payments should bear a reasonable re-

lation to the size of the debt and the debtor’s ability to pay. Interest, administrative charges, and penalty charges shall be provided for in the note. The debtor shall be provided with a written explanation of the consequences of signing a confess-judgment note. The debtor shall sign a statement acknowledging receipt of the written explanation which shall provide that the statement was read and understood before execution of the note and that the note is being signed knowingly and voluntarily. Some form of objective evidence of these facts will be maintained in DOE’s file on the debtor.

(2) In cases in which the procedural requirements specified in this paragraph have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to a notice of audit disallowance, DOE is not required to duplicate those requirements before taking administrative offset. Furthermore, DOE may effect administrative offset against a payment to be made to a debtor prior to completion of the required procedures if failure to take the offset would substantially prejudice the Government’s ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset will be promptly followed by completion of those procedures. Amounts recovered by administrative offset found not to be owed to DOE shall be promptly refunded.

(e) At any time during the collection cycle, DOE may take any of the actions authorized under this section or under the Federal Claims Collection Standards. These actions include, but are not limited to, reports to credit bureaus, referrals to collection agencies, termination of contract, debarment, and administrative offset, as authorized in 31 U.S.C. 3701–3719.

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§ 1015.4 Interest, administrative charges, and penalty charges.

(a) DOE shall assess interest on unpaid claims at the rate of the current

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value of funds to the Treasury as prescribed by the Secretary of the Treasury on the date the computation of interest begins unless a higher rate of interest is necessary to protect the interests of the Government. DOE shall assess administrative charges to cover the costs of processing and handling overdue claims. Administrative charges will be assessed concurrent with the interest assessment and will be based on actual costs incurred or an average of additional costs incurred in processing and handling claims in similar stages of delinquency. DOE shall assess penalty charges of six percent a year on any part of a debt more than 90 days past due. Such assessment will be retroactive to the first day the debt became delinquent. The imposition of interest, administrative charges, and penalty charges is made in accordance with 31 U.S.C. 3717.

(b) Interest will be computed from the date the initial demand is mailed, hand-delivered, or otherwise transmitted to the debtor. If the claim or any portion thereof is paid within 30 days after the date on which interest began to accrue, the associated interest shall be waived. This period for waiver of interest may be extended in individual cases if there is good cause to do so and it is in the public interest. Interest will only be computed on the principal of the claim and the interest rate will remain fixed for the duration of the indebtedness, except where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement. A new rate which reflects at a minimum the current value of funds to the Treasury at the time the new agreement is executed may be set, if applicable, and interest on interest and related charges may be charged where the debtor has defaulted on a previous repayment agreement. Charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under the new repayment schedule.

(c) DOE may waive interest, administrative charges, or penalty charges if it finds that one or more of the following conditions exist:

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of interest, administrative charges, or penalty charges will jeopardize collection of the principal of the claim; or

(3) It is otherwise in the best interests of the United States, including the situation in which an offset or installment payment agreement is in effect.

(d) *Exemptions.* (1) The provisions of 31 U.S.C. 3717 do not apply:

(i) To debts owed by any State or local government;

(ii) To debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of) October 25, 1982;

(iii) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts involved; or

(iv) Debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(2) DOE may, however, assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

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§ 1015.5 Responsibility for collection.

(a) Heads of DOE Headquarters Elements and Field Elements or their designees must immediately notify the appropriate finance office of claims arising from their operations. A claim will be recorded and controlled by the responsible finance office upon receipt of documentation from a competent authority establishing the amount due.

(b) The collection of claims under the control of the finance offices will be aggressively pursued in accordance with the provisions of part 102 of the Federal Claims Collection Standards (4 CFR part 102). Whenever feasible, debts owed to the United States, together with interest, administrative charges, and penalty charges, should be collected in full in one lump sum. If the debtor requests installment payments, the finance offices will be responsible for determining the financial hardship of debtors and, when appropriate, shall